

ARKANSAS SUPREME COURT

No. CR 06-786

NOT DESIGNATED FOR PUBLICATION

ROBERT LOUIS SALTER, JR.
Petitioner

v.

HON. J. W. LOONEY, CIRCUIT
JUDGE
Respondent

Opinion Delivered September 28, 2006

PRO SE PETITION FOR WRIT OF
MANDAMUS [CIRCUIT COURT OF
POLK COUNTY, CV 2002-170]

PETITION DENIED

PER CURIAM

In 2002, the State of Arkansas filed in the Circuit Court of Polk County a civil complaint seeking forfeiture of certain items seized pursuant to the execution of a search warrant.¹ Petitioner Robert Louis Salter, Jr., one of the owners of the property at issue, filed an answer to the complaint through his attorney. On April 13, 2005, the court entered an order granting petitioner's attorney's motion to be relieved as counsel in which the court directed that the attorney turn his case file over to petitioner. Petitioner subsequently filed a *pro se* "counterclaim" to the State's complaint, a motion for summary judgment, and a motion to dismiss for want of prosecution. On March 8, 2006, the court entered an order dismissing the State's complaint without prejudice.

Now before us is petitioner Salter's petition for writ of mandamus in which he asks this court

¹*State of Arkansas v. One Smith & Wesson Model 34 Revolver and Sixty Other Seized Firearms; Seized Ammunition of Various Calibers in Excess of 28,000 Rounds; and Two Pair of ITT Night Vision Goggles*, CV 2002-170.

to issue a writ directing Circuit Judge J. W. Looney to “execute an order replevying to [petitioner] the property that was seized from petitioner, and made a part of the forfeiture case . . .” Petitioner argues that the court’s order dismissing the State’s complaint did not return his property to him and was thus inadequate.

The purpose of a writ of mandamus in a civil or a criminal case is to enforce an established legal right or to enforce the performance of a duty. *Smith v. Fox*, 358 Ark. 388, 193 S.W.3d 238 (2004). When requesting a writ of mandamus, a petitioner must show a clear and certain right to the relief sought and the absence of any other adequate remedy. *Manila School Dist. No. 15 v. Wagner*, 357 Ark. 20, 159 S.W.3d 285 (2004). We cannot say from the petition before us or the partial record lodged with the petition that petitioner has met his burden of demonstrating that he is entitled to a writ of mandamus directing the lower court to take a specific action expanding the scope of its order dismissing the State’s complaint.

Petition denied.